

By: Zaffirini

S.B. No. 40

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the functions of the Texas Guaranteed Student Loan
3 Corporation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 57.01 and 57.11, Education Code, are
6 amended to read as follows:

7 Sec. 57.01. DECLARATION OF POLICY. The legislature, giving
8 due consideration to the historical and continuing interest of the
9 people of the State of Texas in encouraging deserving and qualified
10 persons to realize their aspirations for education beyond high
11 school, finds and declares that postsecondary education for
12 qualified Texans ~~[those]~~ who desire to pursue such ~~[an]~~ education
13 ~~[and are properly qualified therefor]~~ is important to the welfare
14 and security of this state and the nation and, consequently, is an
15 important public purpose. The legislature finds and declares that
16 the state can achieve its full economic and social potential only if
17 every individual has the opportunity to contribute to the full
18 extent of the individual's ~~[his or her]~~ capabilities and only when
19 financial barriers to the individual's ~~[his or her]~~ economic,
20 social, and educational goals are removed. It is, therefore, the
21 purpose of this chapter to establish the Texas Guaranteed Student
22 Loan Corporation to:

23 (1) administer a guaranteed student loan program,
24 student financial aid programs, and other student loan programs to

1 assist qualified [~~Texas~~] students in this state and across the
2 nation in receiving a postsecondary education in this state or
3 elsewhere in the nation; [~~and~~]

4 (2) assist institutions of higher education by
5 providing [~~provide~~] necessary and desirable services related to
6 financial aid and student [~~the~~] loan programs; and

7 (3) participate in revenue-generating activities
8 related to higher education student financial aid and student loan
9 programs to the extent the activities support the corporation's
10 primary purposes under Subdivisions (1) and (2) [~~program, including~~
11 ~~cooperative awareness efforts with appropriate educational and~~
12 ~~civic associations designed to disseminate postsecondary education~~
13 ~~awareness information, including information regarding student~~
14 ~~financial aid and the Federal Family Education Loan Program, and~~
15 ~~other relevant topics including the prevention of student loan~~
16 ~~default~~].

17 Sec. 57.11. TEXAS GUARANTEED STUDENT LOAN CORPORATION.

18 (a) The Texas Guaranteed Student Loan Corporation is created to
19 administer the programs authorized by this chapter.

20 (b) The corporation is a public nonprofit corporation and,
21 except as otherwise provided in this chapter, has all the powers and
22 duties incident to a nonprofit corporation under Chapter 22,
23 Business Organizations Code [~~the Texas Non-Profit Corporation Act~~
24 ~~(Article 1396-1.01 et seq., Vernon's Texas Civil Statutes)~~].

25 (c) [~~(b)~~] Except as otherwise provided by law, all expenses
26 of the corporation shall be paid from revenue [~~income~~] of the
27 corporation.

1 (d) [~~(e)~~] The corporation is subject to Chapters [~~Chapter~~]
2 551 and 552, Government Code.

3 (e) [~~(d)~~] Student loan borrower information collected,
4 assembled, or maintained by the corporation is confidential and is
5 not subject to disclosure under Chapter 552, Government Code.

6 SECTION 2. Subsection (a), Section 57.12, Education Code,
7 is amended to read as follows:

8 (a) The Texas Guaranteed Student Loan Corporation is
9 subject to Chapter 325, Government Code (Texas Sunset Act). Unless
10 continued in existence as provided by that chapter, the corporation
11 is abolished and this chapter expires September 1, 2013 [~~2017~~].

12 SECTION 3. Subsection (b), Section 57.1311, Education Code,
13 is amended to read as follows:

14 (b) The training program must provide the person with
15 information regarding:

16 (1) the provisions of this chapter, including the
17 policies developed under Section 57.19(i) regarding the separation
18 of policymaking and management responsibilities, and the
19 corporation's programs, functions, rules, and budget;

20 (2) the results of the most recent formal audit of the
21 corporation;

22 (3) the requirements of laws relating to open
23 meetings, public information, and conflicts of interest; and

24 (4) any applicable ethics policies adopted by the
25 corporation or the Texas Ethics Commission.

26 SECTION 4. Section 57.17, Education Code, is amended to
27 read as follows:

1 Sec. 57.17. OFFICERS. The governor shall designate the
2 chairman from among the board's membership. The board shall elect
3 from among its members a [~~chairman,~~] vice-chairman[~~,~~] and other
4 officers that the board considers necessary. The chairman and
5 vice-chairman serve for a term of one year and may be redesignated
6 or reelected, as applicable.

7 SECTION 5. Subchapter B, Chapter 57, Education Code, is
8 amended by adding Section 57.181 to read as follows:

9 Sec. 57.181. MEETING BY TELEPHONE CONFERENCE CALL; QUORUM
10 PRESENT AT ONE LOCATION REQUIRED. (a) Notwithstanding Chapter
11 551, Government Code, the board or a board committee may hold a
12 meeting by telephone conference call only if a quorum of the board
13 or board committee, as applicable, is physically present at one
14 location of the meeting.

15 (b) A telephone conference call meeting is subject to the
16 notice requirements applicable to other meetings, except that the
17 meeting notice must also specify:

18 (1) the location of the meeting where a quorum of the
19 board or board committee, as applicable, will be physically
20 present; and

21 (2) the intent to have a quorum present at that
22 location.

23 (c) The meeting location where a quorum is physically
24 present must be open to the public during the open portions of a
25 telephone conference call meeting. The open portions of the
26 meeting must be audible to the public at the location where the
27 quorum is present and be tape-recorded at that location. The tape

1 recording must be made available to the public.

2 (d) The meeting location where a quorum is physically
3 present must provide two-way communication during the entire
4 telephone conference call meeting, and the identification of each
5 party to the telephone conference call must be clearly stated
6 before the party speaks.

7 (e) A member of the board who participates in a board or
8 board committee meeting by telephone conference call but is not
9 physically present at the meeting location where a quorum is
10 physically present is not considered to be absent from the meeting
11 for any purpose. The vote of a member of the board who participates
12 in a board or board committee meeting by telephone conference call
13 is counted for the purpose of determining the number of votes cast
14 on a motion or other proposition before the board or board
15 committee.

16 (f) A member of the board may participate remotely by
17 telephone conference call instead of by being physically present at
18 the location of a board meeting for not more than one board meeting
19 per calendar year. A board member who participates remotely in any
20 portion of a board meeting by telephone conference call is
21 considered to have participated in the entire board meeting by
22 telephone conference call. For purposes of this subsection, remote
23 participation by telephone conference call in a meeting of a board
24 committee does not count as remote participation by telephone
25 conference call in a board meeting regardless of whether:

26 (1) a quorum of the full board attends the board
27 committee meeting; or

1 (2) notice of the board committee meeting is also
2 posted as notice of a board meeting.

3 (g) A person who is not a member of the board may not speak
4 at the board or board committee meeting from a remote location by
5 telephone conference call, except as provided by Section 551.129,
6 Government Code.

7 (h) The authority provided by this section is in addition to
8 the authority provided by Section 551.125, Government Code.

9 SECTION 6. Subsection (d), Section 57.19, Education Code,
10 is amended to read as follows:

11 (d) The president or the president's designee shall develop
12 a [an intra-agency] career ladder program for the corporation. The
13 program shall require internal corporate [intra-agency] postings
14 of all nonentry level positions concurrently with any public
15 posting.

16 SECTION 7. Subsection (a), Section 57.20, Education Code,
17 is amended to read as follows:

18 (a) The corporation shall appoint an ombudsman [~~maintain a~~
19 ~~system~~] to promptly and efficiently act on complaints filed with
20 the corporation. The ombudsman [~~corporation~~] shall maintain
21 information about parties to the complaint, the subject matter of
22 the complaint, a summary of the results of the review or
23 investigation of the complaint, and its disposition.

24 SECTION 8. Subsections (a) and (c), Section 57.21,
25 Education Code, are amended to read as follows:

26 (a) The corporation shall take an active role in
27 coordinating, facilitating, promoting, and providing assistance

1 and support to:

2 (1) programs that focus on and disseminate [~~designed~~
3 ~~to make available to the residents of this state~~] information
4 regarding [~~concerning~~] postsecondary education awareness and the
5 availability of student financial aid[, ~~including the Federal~~
6 ~~Family Education Loan Program,~~] and that [~~to~~] assist families in
7 obtaining [~~needed~~] postsecondary education financing;

8 (2) programs designed to assist students, families,
9 borrowers, and schools in preventing [~~prevent~~] student loan default
10 throughout the life of the loan, provided that such programs are
11 required as a part of a guaranty agency's obligation under the
12 Federal Family Education Loan Program established by the Higher
13 Education Act of 1965 (20 U.S.C. Section 1071 et seq.), or are
14 funded by statutory or regulatory mandate, compensation, grant,
15 contract, award, or other appropriate means; and

16 (3) programs designed to increase student retention
17 and graduation rates in postsecondary education.

18 (c) To the extent practicable, each [~~Each~~] state agency
19 that conducts higher education and financial aid outreach
20 activities shall enter into a memorandum of understanding with the
21 corporation. The memorandum of understanding may [~~must~~] outline
22 how the corporation and the state agency will coordinate outreach
23 activities to maximize resources and avoid duplication.

24 SECTION 9. The heading to Section 57.22, Education Code, is
25 amended to read as follows:

26 Sec. 57.22. APPLICATION OF BUSINESS ORGANIZATIONS CODE [~~THE~~
27 ~~TEXAS NON-PROFIT CORPORATION ACT~~].

1 SECTION 10. Subsection (a), Section 57.22, Education Code,
2 is amended to read as follows:

3 (a) The corporation is subject to Chapter 22, Business
4 Organizations Code [~~the Texas Non-Profit Corporation Act (Article~~
5 ~~1396-1.01 et seq., Vernon's Texas Civil Statutes)~~], except that:

6 (1) the corporation may not make donations for the
7 public welfare or for charitable or scientific purposes or in aid of
8 war activities;

9 (2) the corporation is not required to file articles
10 of incorporation;

11 (3) the corporation is not subject to voluntary or
12 involuntary dissolution;

13 (4) the corporation may not be placed in receivership;
14 and

15 (5) the corporation is not required to make reports to
16 the secretary of state under Section 22.357, Business Organizations
17 Code [~~Article 9.01 of that Act~~].

18 SECTION 11. Section 57.24, Education Code, is amended to
19 read as follows:

20 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
21 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
22 may participate in a revenue-generating activity by entering into a
23 contract with the United States Department of Education, with this
24 state or any agency, instrumentality, or political subdivision of
25 this state, with any eligible institution as defined by Section 435
26 of the Higher Education Act of 1965 (20 U.S.C. Section 1085), as
27 amended, that is eligible to participate in a program under Title IV

1 of that Act, with any guaranty agency as defined by Section 435 of
2 that Act, or with any entity to which the United States Department
3 of Education has awarded one or more contracts to provide services
4 under Title IV of that Act [~~that is consistent with the~~
5 ~~corporation's purposes~~] if the board determines that [~~the revenue~~
6 ~~from the activity~~]:

7 (1) [~~is sufficient to cover the costs of~~] the activity
8 is consistent with the corporation's purposes described by Section
9 57.01; [and]

10 (2) revenue from the activity is sufficient to cover
11 the costs of the activity, including the opportunity costs of any
12 invested capital, within a defined period of time determined by the
13 board for purposes of this section; and

14 (3) revenue from the activity will enable the
15 corporation to support educational purposes under Section 57.211
16 [~~may contribute to a reduction in the insurance premium paid by~~
17 ~~students under Section 57.43 of this code~~].

18 (b) The corporation may enter into a contract with the
19 United States Department of Education under Subsection (a) alone or
20 in concert with any of the entities with which the corporation may
21 enter into a contract under that subsection.

22 (c) If, under Subsection (a) [~~of this section~~], the board
23 authorizes the corporation to perform additional services, the
24 corporation may not require postsecondary educational institutions
25 or students to use those services unless required by state or
26 federal law.

27 (d) If, under Subsection (a), the board authorizes the

1 corporation to perform debt collection, default aversion,
2 financial literacy, exit counseling, or loan servicing, the
3 corporation may perform those services only in relation to higher
4 education student loans.

5 (e) The corporation shall submit a written report to the
6 legislature and the Legislative Budget Board not later than
7 December 1 of each even-numbered year regarding the corporation's
8 participation in revenue-generating activities under this section.

9 The report must:

10 (1) include the amounts of revenue from and expenses
11 associated with the activities;

12 (2) demonstrate how that revenue is used for the
13 support of educational purposes under Section 57.211; and

14 (3) certify:

15 (A) the reasonable and necessary amount of
16 operating funds under Section 57.71 required to fulfill the
17 corporation's responsibilities under Section 57.41(a); and

18 (B) the amount of excess operating funds under
19 Section 57.71.

20 SECTION 12. Subsection (a), Section 57.41, Education Code,
21 is amended to read as follows:

22 (a) The corporation shall serve as the designated guarantee
23 agency under the Federal Family Education Loan Program in
24 accordance with [~~loans made to eligible borrowers by eligible~~
25 ~~lenders as provided by the federal guaranteed student loan program~~
26 ~~under~~] the Higher Education Act of 1965, 20 U.S.C. Section [~~Sec.~~]
27 1001 et seq., as amended, regulations adopted under that Act, and

1 other applicable federal law.

2 SECTION 13. Section 57.461, Education Code, is amended to
3 read as follows:

4 Sec. 57.461. [~~POSTSECONDARY EDUCATIONAL INSTITUTIONS AND~~
5 ~~LENDER~~] ADVISORY COMMITTEES. [~~(a)~~] The corporation shall
6 establish advisory committees as the board considers appropriate[~~+~~

7 [~~(1) an advisory committee that is composed of 15~~
8 ~~members who represent the postsecondary educational institutions~~
9 ~~that participate in the corporation's guaranteed student loan~~
10 ~~program; and~~

11 [~~(2) an advisory committee that is composed of 12~~
12 ~~members including:~~

13 [~~(A) one member who represents the Texas Higher~~
14 ~~Education Coordinating Board; and~~

15 [~~(B) 11 members who represent lenders that~~
16 ~~participate in the corporation's guaranteed student loan program].~~

17 [~~(b) The board shall appoint advisory committee members on~~
18 ~~the recommendation of the president.~~

19 [~~(c) The board may establish other advisory committees as~~
20 ~~the board considers necessary.~~

21 [~~(d) The board shall:~~

22 [~~(1) specify each advisory committee's purpose and~~
23 ~~duties; and~~

24 [~~(2) require each committee to report to the board in a~~
25 ~~manner specified by the board relating to each committee's~~
26 ~~activities and work results.]~~

27 SECTION 14. Subsections (a), (b), and (d), Section 57.47,

1 Education Code, are amended to read as follows:

2 (a) If a student borrower defaults on a loan and the
3 corporation is required to honor the guarantee, the corporation may
4 ~~[or the Texas Higher Education Coordinating Board shall]~~ bring suit
5 against the defaulting party in accordance with the requirements of
6 the Higher Education Act of 1965, 20 U.S.C. Section ~~[Sec.]~~ 1001 et
7 seq., as amended.

8 (b) A suit against a defaulting party under this section may
9 be brought in the county in which the defaulting person resides, in
10 which the lender is located, or in Travis or Williamson County.

11 (d) Notwithstanding any other law, if the corporation ~~[or~~
12 ~~the Texas Higher Education Coordinating Board]~~ brings suit against
13 a defaulting party under this section, the corporation ~~[or the~~
14 ~~coordinating board, as appropriate,]~~ shall pay 50 percent of the
15 filing fee or other costs of court taxed and collected in advance
16 that are in effect on the date on which the suit is filed. If the
17 defaulting borrower prevails in the suit filed under this section,
18 the corporation ~~[or the coordinating board, as appropriate,]~~ shall
19 pay the remaining 50 percent of the statutory filing fee on the date
20 of the final disposition of the suit. If the corporation ~~[or~~
21 ~~coordinating board]~~ prevails in the suit:

22 (1) the judgment shall find the defaulting borrower
23 liable to the corporation ~~[or the coordinating board, as~~
24 ~~appropriate,]~~ for the amount of the filing fee; and

25 (2) the corporation ~~[or coordinating board, as~~
26 ~~appropriate,]~~ shall pay the remaining 50 percent of the statutory
27 filing fee not later than one week after the date on which the

1 defaulting borrower pays to the corporation [~~or coordinating board,~~
2 ~~as appropriate,~~] the full amount, including the filing fee, for
3 which the borrower is liable to the corporation [~~or coordinating~~
4 ~~board~~].

5 SECTION 15. Subsections (a), (b), and (c), Section 57.481,
6 Education Code, are amended to read as follows:

7 (a) [~~In this section, "loan default rate" means the rate at~~
8 ~~which student borrowers default on loans guaranteed by the~~
9 ~~corporation as determined by the corporation in compliance with~~
10 ~~federal guidelines.~~

11 [~~(b)~~] The corporation shall take a comprehensive and [~~an~~]
12 active role in coordinating, facilitating, and providing technical
13 assistance on guaranteed student loan default prevention and
14 reduction initiatives and programs that promote responsible
15 borrowing, financial literacy, debt management, research, and
16 informed policymaking [~~in the state~~] and shall work with the
17 appropriate state agencies and other entities inside and outside
18 this state, including eligible postsecondary educational
19 institutions, eligible lenders, servicers, secondary markets, the
20 Texas Higher Education Coordinating Board, the Texas [~~Central~~]
21 Education Agency, [~~and~~] state professional and occupational
22 licensing agencies, and the United States Department of Education.

23 (b) [~~(c)~~] The corporation shall maintain a system of
24 communication among the appropriate state agencies and entities to
25 address student [~~reduce~~] loan default prevention issues [~~claims~~].

26 SECTION 16. Section 57.49, Education Code, is amended to
27 read as follows:

1 Sec. 57.49. COOPERATION OF STATE AGENCIES AND SUBDIVISIONS.

2 Each agency and political subdivision of the state shall cooperate
3 with the corporation in providing information to the agency's or
4 political subdivision's clients concerning student financial aid,
5 including information about delinquency, default prevention, and
6 life-of-loan issues. Each agency and political subdivision shall
7 provide information to the corporation on request to assist the
8 corporation in curing delinquent loans, ~~and~~ collecting defaulted
9 loans, and developing information and reports concerning
10 responsible borrowing.

11 SECTION 17. Sections 57.50 and 57.71, Education Code, are
12 amended to read as follows:

13 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
14 an eligible lender may discriminate against an eligible student in
15 making a loan or loan guarantee on the basis of race, age, religion,
16 or sex or any other basis prohibited by applicable law.

17 Sec. 57.71. FEDERAL ~~[RESERVE]~~ AND OPERATING FUNDS. The
18 corporation shall maintain a federal fund ~~[establish reserve]~~ and
19 operating fund ~~[funds]~~ in accordance with Sections ~~[Section]~~ 422,
20 422A, and 422B of the Higher Education Act of 1965 (20 U.S.C.
21 Sections ~~[Section]~~ 1072, 1072a, and 1072b), as amended.

22 SECTION 18. Subchapter D, Chapter 57, Education Code, is
23 amended by adding Section 57.762 to read as follows:

24 Sec. 57.762. REVIEW BY STATE AUDITOR. In addition to any
25 other audit required by law, the state auditor shall periodically
26 review the corporation's activities in a manner consistent with the
27 state auditor's audit plan under Chapter 321, Government Code. The

1 corporation shall reimburse the state auditor for all reasonable
2 costs incurred by the state auditor in conducting a review under
3 this section.

4 SECTION 19. Section 57.78, Education Code, is amended to
5 read as follows:

6 Sec. 57.78. INVESTMENTS. The federal fund maintained by
7 the corporation under Section 57.71 shall [~~All money of the~~
8 ~~corporation may~~] be invested in accordance with Section 422A of the
9 Higher Education Act of 1965 (20 U.S.C. Section 1072a), as amended.
10 The operating fund maintained by the corporation under Section
11 57.71 may be invested only in accordance with Chapter 2256,
12 Government Code. Authority to invest the operating fund in
13 accordance with Chapter 2256, Government Code, complies with
14 Section 422B of the Higher Education Act of 1965 (20 U.S.C. Section
15 1072b), as amended.

16 SECTION 20. The following provisions of the Education Code
17 are repealed:

- 18 (1) Subsections (c), (g), and (h), Section 57.19;
- 19 (2) Subsections (c) and (d), Section 57.41;
- 20 (3) Section 57.42;
- 21 (4) Section 57.43;
- 22 (5) Section 57.44;
- 23 (6) Section 57.45;
- 24 (7) Section 57.46; and
- 25 (8) Subsections (d), (e), (f), (g), and (h), Section
26 57.481.

27 SECTION 21. This Act takes effect immediately if it

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1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2011.